

BOARD OF APPEALS CASE NO. 5487

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BEFORE THE

APPLICANT: Ernest Chapman

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ZONING HEARING EXAMINER

REQUEST: Modification of Condition No. 4 in
Case No 4655, to allow the garage to exceed 50%
of the square footage of the dwelling

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 5/25/05 & 6/1/05

HEARING DATE: July 27, 2005

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Record: 5/27/05 & 6/3/05

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Ernest Chapman, is seeking an amendment to Condition Number 4 in Board of Appeals Case No. 4655, to allow the garage to exceed 50% of the square footage of the habitable space of the dwelling.

The subject parcel is located on the west side of Deer Drive, Darlington, Maryland 21034 in the Fifth Election District, and is more particularly identified on Tax Map19, Grid 3C, Parcel 490, Lot 7A, in the Deerfield development. The parcel contains approximately 0.864 acres.

The Applicant, Mr. Ernest Chapman, appeared and testified he is the owner of the subject property. He read Department of Planning and Zoning's Staff Report, and had no changes or corrections to the information contained therein. The witness indicated that he owns two adjoining properties. The first is a one-half acre lot on Deerfield Road (Lot No. 2) improved by a single-family dwelling. The second is an adjoining landlocked parcel (Lot No.7A) accessible only through his property on Deerfield Road. Mr. Chapman testified that he purchased the subject property many years ago for the sole purpose of constructing a garage thereon. No principal use (dwelling) can be constructed on Lot 7A, because the property will not perc. According to the witness, the property is worthless but for the existing garage.

The witness indicated that he purchased a recreational vehicle approximately two years ago. Following that purchase, he constructed a shed type carport roof, extending off the rear roof of the existing garage, under which he parks the recreational vehicle to protect it from the elements. He referred to the photographs on page 2 of the Staff Report Attachment 9, indicating that they depicted the aforesaid carport.

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According to the witness, the subject property is densely wooded, located approximately 150 feet from the roadway, and can not be seen except from his property. None of his neighbors object to the subject carport. In fact the three adjoining property owners signed a statement to that effect, which was filed with the Application. The witness indicated that the Complaint filed with the Department of Planning and Zoning in this case was submitted by a disgruntled former tenant, whom he had recently evicted.

Mr. Dennis Sigler, Coordinator, Zoning & Board of Appeals Review, appeared and testified for the Department of Planning and Zoning regarding the findings of fact and recommendations made by that agency. He indicated that the Department had reviewed the property and the subject request. The Department recommended approval of the application in its April 28, 2005 Staff Report subject to the conditions set forth therein.

According to the witness, the Applicant is requesting an Amendment of the decision in Board of Appeals Case Number 4655. The decision in that case (Staff Report Attachment 1) conditioned approval on the Applicant's variance request upon the following: "The proposed garage shall not exceed 50% of the square footage of the habitable space, nor exceed the height of the dwelling."

Mr. Sigler testified that the requested modification will not cause any adverse impact to neighboring properties. The subject parcel is not visible from any adjoining properties, because the entire area is densely wooded. He stated that when the neighborhood was laid out, there was originally supposed to be a road constructed on the opposite side of the parcel from Applicant's property. However, the parcel now remains landlocked due to the fact that it could not be developed because it would not perc. He further stated that in all likelihood the property will not be developed in the near future, because public sewer and water will not be available to the site for quite some time.

No testimony or evidence was presented in opposition to the requested modification.

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CONCLUSION:

The Applicant, Ernest Chapman, is seeking an amendment to Condition Number 4 in Board of Appeals Case No. 4655 to allow the garage to exceed 50% of the square footage of the habitable space of the dwelling.

The Board of Appeals approved Applicant's request in Case No. 4655, for a variance to permit an existing structure (shed) and a proposed structure (garage) to be constructed on Lot 7A without a principal use. The Board conditioned approval in that case on the garage not exceeding "50% of the square footage of habitable space, nor exceed[ing] the height of the dwelling." (Condition No. 4). Because there was no dwelling present on the subject property at the time of that hearing, the Hearing Examiner will presume that the condition referred to the dwelling on Applicant's adjacent Lot 2. The Hearing Examiner finds that the requested modification is relatively minor, in light of the fact that there is no dwelling actually located on the subject property, and the parcel has not been combined with Applicant's adjoining lot.

The Hearing Examiner also finds that the requested modification will have no adverse impact upon surrounding properties. The existing garage is located approximately 150 feet from the nearest roadway. The subject parcel is densely wooded, and the garage is not visible from adjacent properties. The property is landlocked, and can not be developed due to the fact that it will not perc. Public sewer and water is not expected in the area any time in the near future. All adjoining property owners have signed a statement supporting the requested modification. In addition, the subject request raises no issues in light of the Limitations, Guides and Standards, set forth in Section 267-9I.

Accordingly, the Hearing Examiner recommends approval of the Applicant's request subject to the Applicant obtaining all necessary permits and inspections for the garage and the addition to the garage.

Date: AUGUST 29, 2005

Rebecca A. Bryant
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on SEPTEMBER 27, 2005.